

HONORABLE JAMES L. ROBERT

U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

MONTY J. BOOTH, ATTORNEY AT LAW,
P.S., a Washington corporation, individually and
on behalf of a class of Washington businesses
similarly situated,

Plaintiff,

vs.

APPSTACK, INC., a Delaware corporation;
STEVE ESPINOSA, individually; and JOHN
ZDANOWSKI, individually,

Defendants.

NO. 2:13-cv-01533-JLR

**DECLARATION OF MARY B.
REITEN IN SUPPORT OF
PLAINTIFF'S MOTION FOR CLASS
CERTIFICATION**

I, Mary B. Reiten, declare as follows:

1. I am a member of the law firm of Terrell Marshall Daudt & Willie PLLC ("TMDW"), counsel of record for Plaintiffs in this matter. I am admitted to practice before this Court and am a member in good standing of the bars of the States of Washington and California. I respectfully submit this declaration in support of Plaintiff's Motion for Class Certification of the above-captioned class action. Except as otherwise noted, I have personal knowledge of the facts set forth in this declaration, and could testify competently to them if called upon to do so.

2. Attached hereto as Exhibit 1 is a true and correct copy of excerpts from the Deposition of Peter Ricci, taken in this matter on August 5, 2014.

3. Attached hereto as Exhibit 2 is a true and correct copy of excerpts from the Deposition of Nathan Moore, taken in this matter on July 31, 2014.

4. Attached hereto as Exhibit 3 are true and correct copies of emails titled “Updated Service Agreement” that were produced by Defendants in this lawsuit under Bates No. APPSTK054484–89 and marked as Exhibit 18 during the depositions of Nathan Moore, taken in this matter on July 13, 2014 and Peter Ricci, taken in this matter on August 5, 2014..

5. Attached hereto as Exhibit 4 are true and correct copies of emails regarding payments to inContact and the success of the autodialing program (“inContact paperwork emails”). These emails were produced by Defendants in this lawsuit under Bates No. APPSTK054441–46 and marked as Exhibit 3 during the depositions of Nathan Moore, taken in this matter on July 31, 2013 and Peter Ricci, taken in this matter on August 5, 2014.

6. Attached hereto as Exhibit 5 are true and correct copies of emails regarding outstanding charges Defendant Appstack owed to inContact. These emails were produced by Defendants in this lawsuit under Bates No. APPSTK054447–70 and marked as Exhibit 5 during the depositions of Nathan Moore taken in this matter on July 31, 2014 and Peter Ricci, taken in this matter on August 5, 2014.

7. Attached hereto as Exhibit 6 are true and correct copies of emails regarding complaints Appstack received regarding the autodialing program (“Veronica with Appstack emails”). These emails were produced by Defendants in this lawsuit under Bates No. APPSTK054525–31 and were marked as Exhibit 13 during the depositions of Nathan Moore, taken in this matter on July 31, 2014 and Peter Ricci, taken in this matter on August 5, 2014.

8. Attached hereto as Exhibit 7 are true and correct copies of emails titled “Cannot Update a Closed Account” that were produced by Defendants in this lawsuit under Bates No.

1 APPSTK054535-43 and marked as Exhibit 20 during the depositions of Nathan Moore, taken
2 in this matter on July 13, 2014 and Peter Ricci, taken in this matter on August 5, 2014..

3 9. Attached hereto as Exhibit 8 is a true and correct copy of a document entitled
4 “Solution Overview — Project Vision and Scope” that was produced by third-party inContact,
5 Inc. under Bates No. INCONTACT_000757-63, and was marked as Exhibit 1 during the
6 depositions of Nathan Moore taken in this matter on July 31, 2014 and Peter Ricci, taken in this
7 matter on August 5, 2014.

8 10. Attached hereto as Exhibit 9 is a true and correct copy of excerpts from
9 Defendant Appstack’s Supplemental Response to Plaintiff’s First Set of Interrogatories, dated
10 April 18, 2014.

11 11. Attached hereto as Exhibit 10 is a true and correct copy of Defendants Steve
12 Espinosa and John Zdanowski’s Amended Response to Plaintiff’s First Request for Admission,
13 dated July 29, 2014.

14 12. Attached hereto as Exhibit 11 is a true and correct copy of a document entitled
15 “inContact Service Contract” that was produced by Defendant in this lawsuit under Bates No.
16 APPSTK00002-11, and was marked as Exhibit 2 during the depositions of Nathan Moore taken
17 in this matter on July 31, 2014 and Peter Ricci, taken in this matter on August 5, 2014.

18 13. Attached hereto as Exhibit 12 is a true and correct copy of a document produced
19 by third-party infogroup under Bates No. INFOGROUP_000038-41.

20 14. Attached hereto as Exhibit 13 is a true and correct copy of excerpts from the
21 Deposition of Chad Greer, taken in this matter on November 7, 2014.

22 15. Attached hereto as Exhibit 14 is a true and correct copy of the small business
23 contact information Defendant obtained from SalesGenie (“infogroup call sheets”). This
24 document was produced by third-party infogroup under Bates No. INFOGROUP_0000056 and
25 was marked as Exhibit 17 during the depositions of Nathan Moore, taken in this matter on July
26 31, 2013 and Peter Ricci, taken in this matter on August 5, 2014.

17. Attached hereto as Exhibit 16 is a true and correct copy of a document entitled “inContact Business Requirements Document” that was produced by third-party inContact under Bates No. INCONTACT_000807-37, and was marked as Exhibit 6 during the depositions of Nathan Moore taken in this matter on July 31, 2014 and Peter Ricci, taken in this matter on August 5, 2014.

18. Attached hereto as Exhibit 17 are true and correct copy of excerpts from the Deposition of Monty Booth, taken in this matter on August 7, 2014.

19. Attached hereto as Exhibit 18 is a true and correct copy of excerpts from the Deposition of Chris Fruehwald, taken in this matter on November 7, 2014.

20. Attached hereto as Exhibit 19 is a true and correct copy of the Declaration of Dr. Thomas Thompson, dated October 3, 2014.

I declare under penalty of perjury under the laws of the State of Washington and the United States of America that the foregoing is true and correct.

EXECUTED at Seattle, Washington, this 14th day of November, 2014.

/s/ Mary B. Reiten, WSBA # 33623
Mary B. Reiten, WSBA #33623

CERTIFICATE OF SERVICE

I, Mary B. Reiten, hereby certify that on November 14, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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DATED this 14th day of November, 2014.

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